



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Rest Lake Dam Committee
PO Box 267
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Subject: Response to January 19th letter.

Dear Committee Members:

I want to thank you for your letter dated January 19th, 2004. I was not aware that group members were meeting separately. I'm glad to hear that you are meeting. Any constructive ideas to help this process are welcomed. I will do my best to answer questions/concerns stated in your letter.

First of all, I want to state that the Department of Natural Resources (department) believes that the process we have begun is positive and open. That was the intent of developing a work group to review the issues and work together to find solutions. I believe we can work together in a positive manner. The first two meetings we have had have been good and the element of trust and openness is there. I thank the committee for their sincerity.

Speaking of trust, there is some concern by committee members that the department would initiate actions before the review is completed. Our intent is to discuss and develop options with the committee before we implement changes. It's possible that we may want to try some different options and evaluate them before any permanent changes are proposed. The committee will be informed of those before we try them. Chippewa and Flambeau Improvement Company (CFIC) is also reluctant to implement any changes without concurrence from the committee.

In your request for the department to provide the most complete and accurate information as possible I will address the items you requested in your letter.

1. What are the legal procedures that have to be followed to change the operation of the dam?

The department has regulatory authority over the operation of Rest Lake Dam under Chapter 31.02 of Wisconsin's Statutes. The department also has the ability to order operational changes, if necessary, to protect the public's rights in navigable waters. Any changes in operation at Rest Lake Dam would be reflected in amendments to CFIC's Permit (2-WP-295). Before the department can modify a permit that regulates water levels and flows, it must first prepare an Environmental Assessment to analyze the impacts and benefits of the proposed change. The public has an opportunity to comment on the environmental analysis. In many cases an administrative law judge would rule if changes were contested.

2. What will the scope and time frame of this study the DNR is going to do?

I have attached a Plan of Study I drafted in the spring of 2003. It lays out a scope of work and things that could be conducted to help find solutions. The list is not all-inclusive. It was a starting point to help us pick and choose priority studies that needed to be done. Some of this work has started. My best guess is that it may take a couple of years to gather the information we need to support decisions.

3. How will the information derived from the study be disseminated to the public?

I am in the process of working with our Madison staff to set up a web page. I would like to work with the committee to get your ideas of what kind of information I should post for the general public. I could provide background information, power point presentations, meeting minutes, and study result summaries.

4. How and when will the public be allowed to have input in the process?

My hope was that committee members could keep their groups informed as we move along in this process. My goal is that once we reach an agreement (i.e. operational changes), a public informational meeting would be held to present the options and receive feedback. Also the public has a chance to comment on the environmental assessment if changes are proposed in the Chippewa Flambeau Improvement Company Operating Permit. More importantly, we intend to continue the kind of public input sessions we have held over the past year on this project.

5. At the present time does the DNR have any parameters established within which it might arrive at a final outcome?

I certainly agree with the committee's concern that if any changes are made: 1) What impact changing the draw down will have on the chain above the dam, and 2) What impact changing the flows will have on the river below the dam. Some of the parameters that will be considered for evaluation when developing options include:

- A. Factors influencing sturgeon spawning success.
- B. What is a realistic spring target flow for sturgeon and other fish?
- C. Evaluate changes in winter draw down elevations in the Rest Lake Chain (Impact on upstream fishery, property damage, flow augmentation).
- D. Is it possible to extend the reservoir fill and draw down periods?
- E. Can we begin filling the chain sooner, before $\frac{3}{4}$ of the ice is off of Rest Lake?
- F. Instream habitat evaluation at different controlled flow releases.
- G. Is the current 50 cfs minimum flow protective of fish and wildlife habitat and river navigation (establish a public interest flow regime)?
- H. Can we establish target flows based flow forecasting/or adaptive management?
- I. How can we ensure the system's benefits will be optimized for both upstream and downstream users while protecting the aquatic community from adverse effects of system operation?

6. At what specific level in the DNR will the final decision are made?

Decisions related to this project will be made at the regional level. Advice from our staff in Madison will be obtained as needed. Information has been shared with our Regional Water Leader John Gozdziński and my supervisor (Headwaters Basin Supervisor) Tom Bashaw. My hope is that a final decision will be one that is developed by the committee and the various user groups. If we believe (department) that we have solid information supporting a change in operation, and an agreement cannot be reached with the committee, we do have the ability to order changes in dam operation. These changes are reviewable in a contested case hearing before an administrative law judge and through the court system.

I hope I have addressed your concerns. If you have any other questions please contact me. I am available to meet with you if needed.

Thank you for your concern for the resources and your willingness to approach the issues with professionalism and fairness.

Thank you.

Sincerely

James D. Kreitlow
Water Team Leader.

C.c. John Gozdziński, DNR
Tom Bashaw, DNR
Robert Olson, Xcel Energy